

SUBCHAPTER C: OFF-SHORE DISCHARGES
§§318.40 - 318.43
Effective December 8, 2016

§318.40. Applicability.

This subchapter applies to off-shore discharges from a marine seawater desalination project.

Adopted November 16, 2016

Effective December 8, 2016

§318.41. Application Review for Off-Shore Discharges.

(a) Upon receipt of an application, the executive director or his designee shall assign the application a number for identification purposes.

(b) Applications for permits shall be reviewed by the staff for administrative completeness within five business days of receipt of the application by the executive director.

(c) If an application is received which is not administratively complete, the executive director shall notify the applicant of the deficiencies by email by the end of the five-day review period.

(1) If the additional information is received within five business days of notice of the deficiency, the executive director will evaluate the information within five business days of receipt of the additional information.

(2) If the additional information is not received within five business days of notice of the deficiency, the application shall be considered withdrawn unless there are extenuating circumstances.

(d) After an application is determined by the executive director to be administratively complete, the executive director shall commence a technical review as necessary and appropriate for a period of time not to exceed 30 business days from the date the application is declared administratively complete.

(e) If an application is received which is not technically complete, the executive director shall notify the applicant by email and prior to the end of the 30-day review period of any additional technical material as may be necessary for a complete review.

(1) If the additional information is received within the timeframe established by the technical review staff, the staff will review the additional information to determine if the application is technically complete.

(2) If the additional information is not received within the timeframe established by the technical review staff, and the information is considered essential by the executive director to make recommendations to the commission on a particular matter, the executive director may return the application to the applicant. In no event, however, will the applicant have less than 15 days to provide the technical data before an application is returned. Decisions to return the application during the technical review stage will be made on a case-by-case basis. The applicant has the option of having the question of sufficiency of necessary technical data referred to the commission for a decision prior to having the application returned.

(f) After an application is determined by the executive director to be technically complete, the executive director shall prepare a draft permit consistent with all applicable commission rules, unless a recommendation is made not to grant an application. The draft permit will be filed with the commission to be included in the consideration of the application for permit and is subject to change during the course of the proceedings on the application. The draft permit shall be available for public review.

(g) The executive director shall prepare a technical summary which sets forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit. The summary shall include the following information, where applicable:

(1) a brief description of the marine seawater desalination project which is the subject of the draft permit;

(2) the sources, quality, and quantity of wastewater that is proposed to be discharged;

(3) a brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions;

(4) reasons why any requested variances or alternatives to required standards do or do not appear justified;

(5) a description of the procedures for reaching a final decision on the draft permit, including procedures whereby the public may participate in the final decision; and

(6) the name and telephone number of any persons to contact for additional information.

(h) After the draft permit and technical summary are prepared and prior to issuance of public notice, the executive director shall email the draft permit and technical summary to the applicant. The applicant shall have 10 business days to review and provide comment on the draft permit.

(i) Public notice and comment must comply with the procedures in §39.903 of this title (relating to Public Notice and Comment for Off-Shore Discharges).

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§318.42. Action by the Executive Director.

Actions by the executive director under this subchapter are subject to the provisions in §§50.133, 50.135, and 50.137 of this title (relating to Executive Director Action on Application or WQMP Update; Effective Date of Executive Director Action; and Remand for Action by Executive Director, respectively).

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§318.43. Motion to Overturn Executive Director's Decision.

A motion to overturn may be filed under this subchapter in accordance with the provisions in §50.139 of this title (relating to Motion to Overturn Executive Director's Decision).

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